

**EXHIBIT AL**

**From:** Ferguson, Gerald  
**Sent:** Thursday, December 16, 2021 1:49 PM  
**To:** copyright@opensea.io  
**Cc:** antifraud@opensea.io; McDonald, Heather J.; Wallace, Kevin M.  
**Subject:** URGENT! Unauthorized Use of Hermès' Trademarks  
**Attachments:** Letter to Rothschild 2021-12-16.pdf

Dear OpenSea,

We represent Hermès International in intellectual property matters. Please take notice of infringing activity taking place on your platform as set forth in the attached correspondence. Please contact me to discuss this matter.

Very Truly Yours,  
Gerald Ferguson

**Gerald J. Ferguson**  
He | Him | His  
Partner

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December 16, 2021

**VIA EMAIL (MASE@MASONROTHSCHILD.COM)**

Mr. Mason Rothschild

*Re: URGENT! Unauthorized Use of Hermès' Trademarks*

Dear Mr. Rothschild:

This firm is counsel to Hermès International (“Hermès”). Hermès is the owner of the famous trademarks HERMÈS, BIRKIN and configuration marks covering Hermès’s most iconic handbags, including its Birkin handbag (the “Hermès Trademarks”). On behalf of Hermès, we write to demand that you cease your unauthorized commercial use of the Hermès Trademarks.

For decades, Hermès has designed, marketed, and distributed a wide variety of high-quality merchandise under the Hermès Trademarks, including, *inter alia*, handbags, clothing, scarves, shawls, linens and many other goods and accessories. Hermès owns trademark registrations in the United States and around the world for the Hermès Trademarks, including but not limited to U.S. Registration Nos. 4278653 (HERMÈS), 2991927 (BIRKIN) and 3936105 (configuration of the Birkin handbag), copies of which are attached hereto as Exhibit A.

Hermès has expended significant resources marketing, promoting, and offering for sale its handbags, clothing, scarves, shawls and other goods and accessories under the Hermès Trademarks. As a result, Hermès owns significant rights and goodwill in connection therewith. The Hermès Trademarks are famous and widely recognized by the general consuming public in the United States and around the world as signifying high-quality products made and sold by Hermès.

It has come to Hermès’ attention that you are promoting and offering for sale non-fungible tokens (“NFTs”), otherwise known as digital collectibles, that you identify using the BIRKIN trademark. Specifically, you promote your NFTs as “Baby Birkin” and “MetaBirkins” (the “Birkin NFTs”). You also employ the HERMÈS trademark to advertise and promote the sale of the Birkin NFTs which you claim reproduce images of Hermès’ classic and iconic Birkin handbag. Attached hereto as Exhibit B are screenshots of your advertising for the BirkinNFTs. Such use commercializes the Hermès Trademarks in a marketplace where fashion brands are regularly expanding into the digital space.

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Hermès has not authorized you to use the Hermès Trademarks to create, advertise, and/or sell the Birkin NFTs. Among other things, your use of the famous and iconic BIRKIN word mark as the name of the Birkin NFTs and for the purpose of promoting and selling your digital collectibles dilutes the distinctiveness of the BIRKIN mark which identifies Hermès as the source of its high-quality merchandise. Your unauthorized use blurs the line between genuine Hermès merchandise offered under the BIRKIN word mark and unauthorized “Birkin” goods like the Birkin NFTs sold without Hermès’ permission. As you have complained on Twitter, your unauthorized use of the BIRKIN name to promote and sell your NFTs has resulted in many imitators making use of the BIRKIN name to sell NFTs. Attached hereto as Exhibit C is a screenshot of your tweet.

Further, your use of the Hermès Trademarks to advertise, promote, and sell the Birkin NFTs is likely to confuse consumers that the Birkin NFTs originate from Hermès or that Hermès otherwise endorses, sponsors, or is associated with the Birkin NFTs when it does not.

Hermès therefore demands that you stop advertising, promoting, and selling the Birkin NFTs and refrain from using Hermès’ trademarks in the manner that you have used them. We expect written confirmation of your intention to comply with these demands within five days from the date of this letter. Please call me or have your representative call me immediately should have you have any questions: 212-589-4238.

In the meantime, Hermès expressly reserves all rights and remedies available to it, none of which are waived.

Regards,

A handwritten signature in blue ink, appearing to read "Gerald J. Ferguson".

Gerald J. Ferguson

Attachments

cc: copyright@opensea.io

## **Exhibit A**

**Generated on:** This page was generated by TSDR on 2020-01-02 14:59:36 EST

**Mark:** HERMÈS

HERMÈS

**US Serial Number:** 85601086

**Application Filing Date:** Apr. 18, 2012

**US Registration Number:** 4278653

**Registration Date:** Jan. 22, 2013

**Register:** Principal

**Mark Type:** Trademark, Service Mark

**TM5 Common Status Descriptor:**



LIVE/REGISTRATION/Issued and Active

The trademark application has been registered with the Office.

**Status:** A partial Sections 8 and 15 combined declaration has been accepted and acknowledged.

**Status Date:** Jan. 30, 2019

**Publication Date:** Nov. 06, 2012

## Mark Information

**Mark Literal Elements:** HERMÈS

**Standard Character Claim:** Yes. The mark consists of standard characters without claim to any particular font style, size, or color.

**Mark Drawing Type:** 4 - STANDARD CHARACTER MARK

**Color(s) Claimed:** Color is not claimed as a feature of the mark.

## Related Properties Information

**Claimed Ownership of US Registrations:** 0369271, 0369681, 0370082 and others

## Foreign Information

**Foreign Registration Number:** 008772428

**Foreign Registration Date:** Apr. 02, 2012

**Foreign Application/Registration Country:** EUROPEAN (EU) OFFICE FOR HARMONIZATION IN THE INTERNAL MARKET (OHIM)

**Foreign Expiration Date:** Dec. 01, 2019

## Goods and Services

### Note:

The following symbols indicate that the registrant/owner has amended the goods/services:

- Brackets [...] indicate deleted goods/services;
- Double parenthesis ((.)) identify any goods/services not claimed in a Section 15 affidavit of incontestability; and
- Asterisks \*..\* identify additional (new) wording in the goods/services.

**For:** Perfumery; eau de parfum; [ essential oils for personal use; ] cosmetics; make-up preparations; [ dentifrices; ] tissues impregnated with cosmetic lotions; shower gel; beauty creams for the body; shaving preparations; shaving creams; after-shave balms; cosmetic preparations for the bath; cosmetic creams; toiletry preparations, namely, non-medicated toiletries; [ bleaching preparations for laundry use; cleaning preparations, polishing preparations and degreasing preparations for household use; cleaning preparations; ] oils for cleaning purposes; shoe wax; leather bleaching preparations, namely, shoe polishing creams; creams for leather; shoe cream; shoe polish; shoe wax[ ; cobblers' wax ]

**International Class(es):** 003 - Primary Class

**U.S Class(es):** 001, 004, 006, 050, 051, 052

**Class Status:** ACTIVE**Basis:** 44(e)

**For:** [ Common metals and their alloys; metal safes; ] closure of metal for bags and pouches; closures of metal for goods made of leather or imitations of leather, namely, wallets, purses, card holders, document wallets, key cases of leather, [ holders for checkbooks, ] passport holders, [ photograph cases, ] empty toiletry travel cases; [ boxes of common metal; closures of metal for containers; bottle caps of metal; bottle closures of metal; ] knobs of metal; metal padlocks; [ ferrules of metal for walking sticks and umbrellas; nails; knife handles of metal; upright signboards of metal; fittings of metal for furniture; money boxes of metal; metal rivets; metal bells; hooks of metal for clothes rails; door handles of metal; crucibles of common metal and their alloys ]

**International Class(es):** 006 - Primary Class

**U.S Class(es):** 002, 012, 013, 014, 023, 025, 050

**Class Status:** ACTIVE**Basis:** 44(e)

**For:** [ Side arms other than firearms, namely, swords; ] table knives, forks and spoons made of precious metal; [ razors; ] silver plated knives, forks and spoons; [ pocket knives; pen knives; hunting knives; lasts for shoe-making; scissors; hand tools for gardening, namely, pruning scissors and flower cutters; manicure and pedicure sets, hand tools, namely, tongs, sugar tongs ]

**International Class(es):** 008 - Primary Class

**U.S Class(es):** 023, 028, 044

**Class Status:** ACTIVE**Basis:** 44(e)

**For:** Spectacle cases; [ sunglasses; sports glasses; optical goods, namely, blank optical discs, filters, lenses, spectacle frames,] mirrors[, and scanners ] ; [ spectacles, carrying cases for binoculars; telescopes; ] protective helmets for sports; riding helmets; blank USB flash drive sticks; [ electronic personal organizers; electronic games, namely, electronic game programs; computer game software; computer mouse; ] mouse pads; [ temperature indicators; measuring rules; graduated rulers; directional compasses; ] magnifying glasses[ ; dog whistles; portable telephones; range finders; surveying instruments, namely, leveling rods ]

**International Class(es):** 009 - Primary Class

**U.S Class(es):** 021, 023, 026, 036, 038

**Class Status:** ACTIVE**Basis:** 44(e)

**For:** Lighting lamps; electric lamps; [ chandeliers; ] standard lamps;[ pocket searchlights; lights for bicycles and vehicles; ] light shades, namely, lamp shades; electric night lights[ ; ceiling light fixtures; taps ]

**International Class(es):** 011 - Primary Class

**U.S Class(es):** 013, 021, 023, 031, 034

**Class Status:** ACTIVE**Basis:** 44(e)

**For:** Bicycles[ ; motorcycles; automobiles; boats; yachts; push chairs ]

**International Class(es):** 012 - Primary Class

**U.S Class(es):** 019, 021, 023, 031, 035, 044

**Class Status:** ACTIVE**Basis:** 44(e)

**For:** [ Precious stones; ] necklaces; chokers; bracelets; rings; earrings; pendants; brooches; badges of precious metal; cuff links; medals made wholly or in part of precious metals; medallions; charms; tie clips; [ tie pins; ] jewelry chains; [ boxes of precious metal; ] jewelry cases and watch cases, not of precious metal; horological and chronometric instruments; watches and structural parts therefor; chronographs as watches; [ stopwatches; ] wristwatches; [ pendulums clocks; small clocks; ] straps for wristwatches; [ clasps for watches; dials for watches; watch cases; watch chains; movements for clocks and watches; ] cases for clock and watch making; jewelry cases; cases for watches; novelty key rings of precious metal; rings for scarves made of precious metal

**International Class(es):** 014 - Primary Class

**U.S Class(es):** 002, 027, 028, 050

**Class Status:** ACTIVE**Basis:** 44(e)

**For:** Cardboard boxes; [ paper bags; sachets; envelopes and paper folders for packaging; ] wrapping paper; [ photo albums; printers' type; numeral and letter printing types; printing blocks; address stamps; book binding material, namely, cardboard backing used for binding books; ] stationery; [ document files; ] diaries; covers for diaries; [ almanacs; tear-off calendars; ] stationery pads; paper sheets for note-taking; drawing pads; school writing and drawing books; calendars; notebooks; telephone indexes; covers for stationery; pencils; [ pencil leads; ] pencil holders; [ pencil lead holders; felt-tip pens; ] pens; penholders; drawing pens; [ pen nibs; ] pen cases; [ pastel crayons; ] pencil bags; drawing sets comprised of pencils, pens, note pads; pencil tubs; [ announcement cards; index cards; ] writing paper; envelopes for stationery; [ glues for stationery or household purposes; artists' materials, namely, paint brushes, namely, drawing brushes; painters' easels; canvas for painting; palettes for painters; paint boxes for use in school; graphic art prints; ] drawing instruments; [ drawing materials for blackboards; paper-clips; typewriters; plastic bags for packaging; checkbook holders; embroidery design patterns printed on paper; prints; graphic art representations and reproductions; photographs; ] photograph stands; [ photo-engravings; engravings; portraits; posters; ] books, [ booklets, manuals, catalogues, pamphlets, leaflets, journals and instructional and

teaching materials all in the fields of wearing apparel, shoes, handbags, watches, perfume, leather accessories, home furnishings, saddlery and cultural events; maps; charts; musical greeting cards; ] postcards; [ money clips; printed advertisement boards of paper or cardboard; sealing stamps; seals; stamp pads; cases for stamps and seals; signboards of paper or cardboard; paper knives; table linen of paper; tablecloths of paper; table napkins of paper; ] place mats of paper; coasters of paper; tablemats of paper; [ bibs of paper; handkerchiefs of paper; flower-pot covers of paper; ] bookmarkers; bookends; book dividers; passport holders; writing pads; [ hat boxes of cardboard; book covers; ] letter trays; [ engraved works of art; lithographs; lithographic works of art; atlases; printed tickets; cardboard articles, namely, boxes; folders for papers; chromos, namely, chromolithographs; patterns for dressmaking; flags of paper; pennants of paper; drawing shields; ] writing instruments; [ printed handwriting specimens for copying; ] writing case sets, comprised of writing instruments; [ placards of paper or cardboard; labels, not of textile, namely, paper labels; paper gift wrap bows; ] paper weights; [ engraving plates; drawing boards; blueprints; stencil plates; drawing rulers; ] coloring books; [ rubber erasers; birth books in the nature of memory books; self-adhesive stickers; car tidy paper bags ]

**International Class(es):** 016 - Primary Class

**U.S Class(es):** 002, 005, 022, 023, 029, 037, 038, 050

**Class Status:** ACTIVE

**Basis:** 44(e)

**For:** [ Shaving cases in the nature of shaving bags sold empty; ] goods of leather or imitations of leather, except the cases adapted for the goods they are designed to carry for gloves and belts, namely, handbags; travelling bags; rucksacks; school bags and satchels; beach bags; shopping bags; [ garment bags for travel; ] bags for sports; nappy bags, namely, diaper bags; [ bags with tartan prints; ] reticules; [ wheeled shopping bags; sling bags for carrying infants; ] pocket wallets; purses; business card cases; credit card cases; attaché cases; key cases made of leather; glove boxes made of leather; [ travelling trunks; unfitted vanity cases made of leather sold empty; ] clutch bags made of leather; saddlery; [ saddle trees; ] bridles; bridoons; leather straps for saddlery purposes; reins; [ horseshoes; ] stirrups; parts of rubber for stirrups; horse track, namely, stirrup leathers, halters, [ fastenings for saddles, ] bands of leather, leather shoulder straps, [ knee-pads for horses, horse blinkers; ] horse blankets; saddle cloths for horses; pads for horse saddles; whips; riding crops; boxes specially adapted for horse saddles; riding saddles; bits for animals; harness fittings; hand straps for handbags; boxes of leather or leatherboard; [ hat boxes made of leather; boxes of vulcanized fiber in the nature of luggage; parasols; ] umbrellas; [ sunshade parasols; umbrella rings; umbrellas covers; umbrella sticks; walking stick handles and umbrella handles; walking stick seats; suitcase handles; collars for animals; leashes for animals; muzzles; ] coats for animals; [ bags for animals, namely, feed bags for animals; ] harness for animals; [ animal skins; carry-all bags for campers; leather animal leashes; leather thread; trimmings of leather for furniture; hunter's game bags; unfitted furniture coverings of leather; moleskin made of imitation leather; bags in the nature of envelopes and pouches of leather for packaging; vanity sets comprised of vanity cases sold empty and ] travelling sets comprised of luggage of textile materials; [ tartan ] bags of textile, namely, all-purpose carrying bags; nappy bags of textile, namely, diaper bags

**International Class(es):** 018 - Primary Class

**U.S Class(es):** 001, 002, 003, 022, 041

**Class Status:** ACTIVE

**Basis:** 44(e)

**For:** Furniture; [ moldings for picture frames; toy chests; ] furniture chests; cushions; [ decorative mobiles; wind chimes; spring mattresses; cushions and nesting boxes for animals; ] boxes and crates of wood or plastic, [ corks for bottles ] ; [ bottle caps not of metal; high chairs for babies; playpens for babies; mats for infant playpens; bassinets; ] coat hangers; [ knife handles not of metal; hand-held mirrors; silvered glass mirrors; table tops; umbrella stands; bookcases; ] magazine racks; hat stands; chairs; easy chairs; armchairs; settees; couches; seats; stools; sofas; furniture in the nature of pouffes, namely, ottomans; [ furniture head rests; ] beds; [ cupboards; sideboards, not of metal; ] benches; screens; [ doors for furniture; ] writing desks; [ plate racks; furniture in the nature of showcases; storage racks and library shelves; ] coat stands; [ bedsteads; partitions of wood for furniture; sideboards; ] dinner wagons; [ index cabinet; ] table; [ draughtman's tables; ] dressing tables; [ chests of drawers; ] office furniture; desks; [ works of art of wood, wax, plaster or plastic; busts of bone, ivory, plaster, wax or wood; ] figurines and statues of wood, wax, plaster or plastic; costume stands; [ embroidery frames; keyboards for hanging keys; ] trays not of metal; [ clothes hooks not of metal; display boards; placards and signboards of wood or plastic; fans for personal use; beds, furniture and door fittings not of metal; ] newspaper display stands; [ letter boxes not of metal or masonry; dressmakers' dummies; door handles not of metal; ] display stands; desks; [ non-metal fasteners, namely, rivets; indoor window blinds; ] wickerwork, namely, furniture made of wicker; [ bottle racks; money boxes not of metal; indoor blinds; ] sleeping bags

**International Class(es):** 020 - Primary Class

**U.S Class(es):** 002, 013, 022, 025, 032, 050

**Class Status:** ACTIVE

**Basis:** 44(e)

**For:** Trays not of metal; baskets for domestic use, not of metal; household or kitchen containers; combs [ and cleaning sponges ]; cases for combs and brushes; brushes, except paint brushes, namely, washing brushes; [ brush-making materials; unworked or semi-worked glass, except glass used in building; ] glassware for the table, namely, drinking glasses, carafes and jugs; [ tableware of glass, namely, dishes, serving pieces, plates and bowls, knife rests, napkin holders and name plate holders; ] tableware of porcelain, namely, dishes, serving pieces, plates and bowls, knife rest, napkin holders and name plate holders; [ earthenware for the table, namely, dishes, serving pieces, plates and bowls, knife rest, napkin holders and name plate holders; isothermic bags, namely, thermal insulated bags for food or beverages; toilet brushes; toilet sponges; toilet sets comprised of toilet brushes; toilet sponges; ] utensils for toilet and cosmetics, namely, [ hairbrushes, toothbrushes, nail brushes and ] combs; [ covers, not of paper, for flower pots; plates; ] bowls; [ egg cups; ] fruit cups; jugs; canisters; candy boxes; ice pails, namely, coolers; salad bowls; saucers; soup tureens; sugar bowls; epergnes; cups; non-electric coffeepots and teapots; dishes; covers for dishes; [ chopsticks; ] butter dishes; non-electric heaters for feeding bottles; biscuit tins; soap boxes; non-metal tea and coffee boxes; boxes of metal for dispensing paper towels; boxes of glass; glass stoppers; corkscrews; candle holders; candlesticks; [ non-electric candelabras; bottles, sold empty; bottle openers; knobs of porcelain; perfume burners; coasters not of paper and other than table linen; menu card holders; ] baskets for domestic purposes, not of metal; mixing spoons; [ toothpick holders; trivets; signboards of porcelain or and glass; spice sets comprised of spice racks; sponge holders; works of art of porcelain, terra-cotta or glass; ] busts, figurines, statues and statuettes of porcelain, terra-cotta or glass; [ flower pots; holders for flowers; gardening gloves; non-electric portable beverage coolers; beakers, namely, wide-mouthed drinking cups for household use; ] vegetable dishes; [ liqueur sets comprised of drinking glasses and ice buckets; mosaics of glass not for building; ]



picnic hampers, namely, picnic baskets sold empty; [ flasks; ] perfume atomizers sold empty; perfume vaporizers sold empty; pie servers; trays for domestic purposes; [ hand-operated pepper mills; pepper pots; salt cellars; non-metal soap baskets; napkin holders, namely, napkin rings and napkin rods; pottery, namely, plates, bowls, cases, pots, pot lids; compacts sold empty; napkin rings; ] vases; combs for animals; horse brushes; animal feeding bowls; curry combs; shoe horns; brushes for footwear; [ shoe trees; heat insulated containers for beverages; insulated flasks; manual cocktail shakers; glass receptacles, namely, cups and trays for keys and coins ]

**International Class(es):** 021 - Primary Class

**U.S Class(es):** 002, 013, 023, 029, 030, 033, 040, 050

**Class Status:** ACTIVE

**Basis:** 44(e)

**For:** [ Ropes; tents; awnings; tarpaulins; sails; sacks and bags, namely, sacks or bags for the transportation or storage of materials in bulk; padding and stuffing materials except of rubber or plastic; raw fibrous textile materials; ] sacks of textile for packaging; bags of textile for packaging[ ; plastic fibers for textile use; textile fibers ]

**International Class(es):** 022 - Primary Class

**U.S Class(es):** 001, 002, 007, 019, 022, 042, 050

**Class Status:** ACTIVE

**Basis:** 44(e)

**For:** [ Silk fabrics; woven and knitted fabrics; non-woven fabrics; textile fabrics for the manufacturing of clothing; ] bed covers; travelling rugs, namely, lap robes; [ curtains of textile or plastic; ] household linen; fabric table runners; cushions; [ cushion covers; ] counterpanes, namely, bedspreads; [ bed linen, namely, bed sheets; ] bath linen, except clothing; bath sheets; face towels of textile; washcloths; guest towels; table linen not of paper; table napkins of textile; place mats not of paper; pocket handkerchiefs of textile; [ labels of cloth; sleeping bags in the nature of sheeting; ] boxes of textile for storage of pins and coins; [ glove boxes of textile; upholstery fabrics; traced cloths for embroidery; table linen coasters; fabric for boots and shoes; ] travelling blankets; quilts; [ linen linings fabric for shoes; flags, not of paper, namely, cloth flags; diapered linen; lingerie fabric; fabrics for use as a textile in the manufacture of furniture; wall hangings of textile; ] tablecloths not of paper; [ fabric for textile use; ] sofa throws

**International Class(es):** 024 - Primary Class

**U.S Class(es):** 042, 050

**Class Status:** ACTIVE

**Basis:** 44(e)

**For:** Pajamas; [ dressing gowns; nightshirts; ] layettes; robes; pants; bathing trunks; bathing costumes; bathing suits; [ overalls; boas; teddies; ] pullovers; sweaters; [ waistcoats; ] shirts; [ shirt yokes; shirt fronts; ] jumpers; [ collars; underwear; ] breeches for wear; [ underpants; saris; ] tee-shirts; trousers; jackets; suits; [ uniforms; ] gabardines; waterproof clothing, namely, waterproof jackets and pants; overcoats; parkas; skirts, dresses; boots; half-boots; esparto shoes or sandals; beach shoes; [ wooden shoes; ] boots for sports; slippers; footwear; sandals; [ boot uppers; fittings of metal for shoes and boots, namely, protective metal members for shoes and boots; ] fashion clothing accessories for men, women and children, namely, bonnets, top hats, gloves, [ muffs, ] mittens, neckties, belts, [ money belts, ascots, ] pocket squares, sashes, shawls, stockings, socks, [ tights, suspenders, ] bibs not of paper, headbands; fur stoles; [ furs, namely, fur jackets; ] pareos; [ aprons ]

**International Class(es):** 025 - Primary Class

**U.S Class(es):** 022, 039

**Class Status:** ACTIVE

**Basis:** 44(e)

**For:** [ Lace and embroidery; ribbons and braid; ] buttons; [ sequins; hooks and eyes; sewing pins and needles; artificial flowers; ] shoe fasteners; fastenings for clothing, namely, [ eyelets, ] buttons, [ hooks ]; sewing boxes; [ buckles for clothing; ] shoe buckles; [ snap fasteners; fastenings for suspenders; ] brooches for clothing; belt clasps; ornaments for hats not of precious metal; [ shoe hooks, namely, fasteners for shoes; eyelets for shoes and clothing; ] shoe ornaments, not of precious metal; hair ornaments; hair pins; hair grips; zip fasteners; zip fasteners for bags

**International Class(es):** 026 - Primary Class

**U.S Class(es):** 037, 039, 040, 042, 050

**Class Status:** ACTIVE

**Basis:** 44(e)

**For:** [ Carpets, rugs, mats, matting and linoleum for covering existing floors; non-textile wall hangings; ] bath mats; rugs; wallpaper[ ; carpet underlay ]

**International Class(es):** 027 - Primary Class

**U.S Class(es):** 019, 020, 037, 042, 050

**Class Status:** ACTIVE

**Basis:** 44(e)

**For:** Decorations for Christmas trees; card games; cases and boxes for card games; mats for board games; board games; counters for games; [ cups for dice; ] dice games; rocking horses; [ baby rattles; ] plush toys; [ teddy bears; ] jigsaw puzzles; parlor games; balls for games; [ play balloons; musical toy mobile games; ] playing cards[ ; building games; draughts, namely, checkers; checkerboards; dominoes; golf bags with and without wheels; golf clubs; protective sport racket covers; toys for domestic pets; dolls; dolls' clothes; dolls' houses; hand puppets; toy mobiles; toy vehicles; activity mats, namely, child activity mats for playing ]

**International Class(es):** 028 - Primary Class

**U.S Class(es):** 022, 023, 038, 050

**Class(es):****Class Status:** ACTIVE**Basis:** 44(e)

**For:** [ Matches; match boxes; ] cigar boxes and cases; cigarette boxes and cases; [ lighters for smokers; ] ashtrays for smokers; [ cigar and cigarette cases; cigar cutters; ] tobacco boxes[ ; snuff boxes not of precious metal ]

**International Class(es):** 034 - Primary Class**U.S Class(es):** 002, 008, 009, 017**Class Status:** ACTIVE**Basis:** 44(e)

**For:** [ Business management; business administration; office functions; advertising, namely, advertising by electronic means on global computer networks such as the Internet; mail advertising; rental of advertising material; rental of advertising space; dissemination of advertisements; direct mail advertising, namely, on global computer networks such as the Internet; publication of publicity texts; updating of advertising material; layout services for advertising purposes, namely, page setting for publicity purposes; outdoor advertising; presentation and demonstration of goods on all means of communication; sales promotion for others; providing business information and advice to the consumer; shop window display arrangement services, namely, windows that are shown on websites; professional management in the field of artistic affairs, namely, management of performing and recording artists; document reproduction; distribution of samples; organization of exhibitions for commercial or advertising purposes; computerized file management; import-export agencies; modeling for advertising or sales promotion; public relations; sponsorship search; press reviews, namely, news clipping services; cost analyses, namely, commercial business estimates; business management and organization consultancy; business and marketing information or enquiries; administrative processing of purchase orders; commercial or industrial management assistance, namely, assistance and help with the operation, organization or management of a commercial company; business appraisals; data management, namely, collection of data in a master file; business information; marketing research; business research; transcription of communications, namely, conference calls and messages; ] retail store services in the fields of clothing, fashion accessories, leather goods, smoking accessories, personal care products, perfumes and fragrances, wristwatches, toys, games, home furnishings and travel accessories [; operation of telecommunications networks and telecommunications sites for electronic commerce for others concerning wearing apparel, shoes, handbags, watches, perfume, leather accessories, home furnishings, saddlery and cultural events ]

**International Class(es):** 035 - Primary Class**U.S Class(es):** 100, 101, 102**Class Status:** ACTIVE**Basis:** 44(e)

**For:** [ Electronic advertising, namely, electronic transmission of advertising messages; communications by computer terminals; electronic data transmission in the nature of secure transmission of data, sound and images on telecommunications apparatus or on computers via a global telecommunications network or a telecommunications network portal concerning wearing apparel, shoes, handbags, watches, perfume, leather accessories, home furnishings, saddlery and cultural events; press and news agencies, namely, transmission of news items to news reporting agencies; providing online discussion forums via a telecommunications network, via a telecommunications network portal or via an electronic mail service, namely, providing online forums for the transmission of messages among computer users concerning wearing apparel, shoes, handbags, watches, perfume, leather accessories, home furnishings, saddlery and cultural events; providing access and connections to telecommunications networks, databases, the Internet, electronic mail services, and websites providing information relating to the aforesaid services via a global computer network; providing private and secure electronic communication services for electronic exchange of information, signals, images, sound and data concerning wearing apparel, shoes, handbags, watches, perfume, leather accessories, home furnishings, saddlery and cultural events; transmission of electronic media, namely, audio and video multimedia content, illustrations, images, texts, photographs, games, computer-aided information on global computer networks such as the Internet concerning wearing apparel, shoes, handbags, watches, perfume, leather accessories, home furnishings, saddlery and cultural events; electronic mail; interactive television broadcasting services relating to the demonstration and presentation of goods ]

**International Class(es):** 038 - Primary Class**U.S Class(es):** 100, 101, 104**Class Status:** SECTION 8 - CANCELLED**Basis:** 44(e)

**For:** [ Entertainment and cultural activities, namely, providing non-downloadable, pre-recorded music and online computer games provided online via local and global networks or a computer database or a telecommunications network portal; arranging and conducting of conferences and seminars for cultural, educational or entertainment purposes in the fields of fashion and the fine arts; ] organization and holding of exhibitions for cultural or educational purposes in the fields of fashion and the fine arts; production of films designed for exhibition via a global computer network; production of fashion [ and musical ] shows [ and musical recordings ]; practical training, namely, educational demonstrations relating to goods; arranging fashion shows and photographic reporting; [ party planning services; creation, production and distribution of television and music video programs, namely, sounds and videos for distribution to telecommunications and computer networks ]

**International Class(es):** 041 - Primary Class**U.S Class(es):** 100, 101, 107**Class Status:** ACTIVE**Basis:** 44(e)

**Generated on:** This page was generated by TSDR on 2019-09-28 14:55:46 EDT

**Mark:** BIRKIN

**BIRKIN**

**US Serial Number:** 78369087

**Application Filing Date:** Feb. 17, 2004

**US Registration Number:** 2991927

**Registration Date:** Sep. 06, 2005

**Register:** Principal

**Mark Type:** Trademark

**TM5 Common Status Descriptor:**



LIVE/REGISTRATION/Issued and Active

The trademark application has been registered with the Office.

**Status:** The registration has been renewed.

**Status Date:** Oct. 06, 2015

**Publication Date:** Jun. 14, 2005

## Mark Information

**Mark Literal Elements:** BIRKIN

**Standard Character Claim:** Yes. The mark consists of standard characters without claim to any particular font style, size, or color.

**Mark Drawing Type:** 4 - STANDARD CHARACTER MARK

## Foreign Information

**Foreign Registration Number:** 97691016

**Foreign Registration Date:** Aug. 08, 1997

**Foreign Application/Registration Country:** FRANCE

**Foreign Expiration Date:** Aug. 08, 2007

## Goods and Services

### Note:

The following symbols indicate that the registrant/owner has amended the goods/services:

- Brackets [...] indicate deleted goods/services;
- Double parenthesis ((.)) identify any goods/services not claimed in a Section 15 affidavit of incontestability; and
- Asterisks \*..\* identify additional (new) wording in the goods/services.

**For:** [ Checkbook holders ]

**International Class(es):** 016 - Primary Class

**U.S Class(es):** 002, 005, 022, 023, 029, 037, 038, 050

**Class Status:** SECTION 8 - CANCELLED

**Basis:** 44(e)

**For:** Leather or imitation leather goods, namely, [ bags, namely, ] handbags, [ travel bags, rucksacks; wallets; card holders in the nature of wallets; leather purses; leather cases for keys; briefcases; trunks and suitcases ]

**International Class(es):** 018 - Primary Class

**U.S Class(es):** 001, 002, 003, 022, 041

**Class Status:** ACTIVE

**Basis:** 44(e)

## Basis Information (Case Level)

---

**Filed Use:** No

**Filed ITU:** No

**Filed 44D:** No

**Filed 44E:** Yes

**Filed 66A:** No

**Filed No Basis:** No

**Currently Use:** No

**Currently ITU:** No

**Currently 44E:** Yes

**Currently 66A:** No

**Currently No Basis:** No

---

## **Current Owner(s) Information**

---

**Owner Name:** Hermes International

**Owner Address:** 24, rue du Faubourg Saint Honore  
Paris FRANCE 75008

**Legal Entity Type:** SOCIÉTÉ EN COMMANDITE PAR ACTIONS

**State or Country** FRANCE  
**Where Organized:**

**Generated on:** This page was generated by TSDR on 2018-09-21 19:08:43 EDT

**Mark:**



**US Serial Number:** 76700120

**Application Filing Date:** Oct. 29, 2009

**US Registration Number:** 3936105

**Registration Date:** Mar. 29, 2011

**Register:** Principal

**Mark Type:** Trademark

**Status:** A Sections 8 and 15 combined declaration has been accepted and acknowledged.

**Status Date:** Jul. 12, 2016

**Publication Date:** Jan. 11, 2011

## Mark Information

**Mark Literal Elements:** None

**Standard Character Claim:** No

**Mark Drawing Type:** 2 - AN ILLUSTRATION DRAWING WITHOUT ANY WORDS(S)/ LETTER(S)/NUMBER(S)

**Description of Mark:** The mark consists of the configuration of a handbag, having rectangular sides a rectangular bottom, and a dimpled triangular profile. The top of the bag consists of a rectangular flap having three protruding lobes, between which are two keyhole-shaped openings that surround the base of the handles. Over the flap is a horizontal rectangular strap having an opening to receive a padlock eye. A lock in the shape of a padlock forms the clasp for the bag at the center of the strap. The broken lines in the drawing represent the location of the handles and are not part of the mark.

**Color(s) Claimed:** Color is not claimed as a feature of the mark.

**Acquired Distinctiveness Claim:** In whole

**Design Search Code(s):** 14.11.08 - Locks; Locks and key holes; padlocks; combination locks; Locks, combination; Padlocks  
19.01.06 - Handbags; Pocketbooks; Purses

## Related Properties Information

**Claimed Ownership of US Registrations:** 1806107, 2447392

## Goods and Services

**Note:** The following symbols indicate that the registrant/owner has amended the goods/services:

- Brackets [...] indicate deleted goods/services;
- Double parenthesis ((.)) identify any goods/services not claimed in a Section 15 affidavit of incontestability; and
- Asterisks \*..\* identify additional (new) wording in the goods/services.

**For:** Handbags

**International Class(es):** 018 - Primary Class

**U.S Class(es):** 001, 002, 003, 022, 041

**Class Status:** ACTIVE

**Basis:** 1(a)

**First Use:** 1986

**Use in Commerce:** 1986

---

## **Basis Information (Case Level)**

---

**Filed Use:** Yes

**Currently Use:** Yes

**Amended Use:** No

**Filed ITU:** No

**Currently ITU:** No

**Amended ITU:** No

**Filed 44D:** No

**Currently 44D:** No

**Amended 44D:** No

**Filed 44E:** No

**Currently 44E:** No

**Amended 44E:** No

**Filed 66A:** No

**Currently 66A:** No

**Filed No Basis:** No

**Currently No Basis:** No

---

## **Current Owner(s) Information**

---


**Owner Name:** Hermes International

**Owner Address:** 24 rue du Faubourg Saint-Honoré  
F-75008 Paris  
FRANCE

**Legal Entity Type:** SOCIÉTÉ EN COMMANDITE PAR ACTIONS

**State or Country** FRANCE  
**Where Organized:**

## **Exhibit B**



### MetaBirkins

MetaBirkins is a collection of 100 unique Birkin NFTs created with faux fur in a range of contemporary color and graphic executions. MetaBirkins are a tribute to Hermes' most famous handbag, the Birkin, one of the most exclusive, well-made luxury accessories. Its impeccable quality, astronomical price tags, and extreme scarcity have made it a highly covetable "holy grail" handbag that doubles as an investment or store of value.

Creator Mason Rothschild began working on MetaBirkins shortly after the success of Baby Birkin, a one-of-one, NFT covered by Forbes and Vogue that sold at auction for 5.5 ETH. In response to the community demand, Rothschild developed a new series, this time inspired by the acceleration of fashion's "fur free" initiatives and embrace of alternative textiles.

MetaBirkins will be launching at Art Basel Miami Beach and available to mint for 0.1 ETH.

Mint for 0.1 ETH

Read

Basic.Space  
Vogue Business  
Complex  
Highsnobology  
LOVEBAG  
Input Mag

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Discord  
Instagram  
OpenSea  
Twitter

Press

Prokew  
Inquire

In partnership with  
Basic.Space







Search items, collections, and accounts

Explore

Stats

Resources

Create

# MetaBirkins

Created by [MetaBirkinsDeployer](#)

100 items

88 owners

5.5 floor price

205 volume traded

MetaBirkins is a collection of 100 unique NFTs created with faux fur in a range contemporary color and graphic executions. MetaBirkins are a tribute to Hermes' most famous handbag, the Birkin, one of the most exclusive, well-made luxury accessories. Its mysterious waitlist, intimidating price tags, and extreme scarcity have made it a highly covetable "holy grail"

Items

Activity

Filter

Status

Price

Chains

On Sale In

Buy Now

On Auction

New

Has Offers

United States Dollar (USD)

Min

to

Max

Search

Single Items

Price: Low to High

100 results

MetaBirkins 39

Top Bid +0.19 9 a day left

14

MetaBirkins 36

Price +6.5 Offer for +0.8

12

MetaBirkins 75

Price +6.9 Last +4.95

14

MetaBirkins 56

Price +6.8 Offer for +0.4

10

MetaBirkins 50

Price +6.9 Last +5.2899

14

MetaBirkins 61

Price +6.9 13 hours left

16

MetaBirkins 81

Price +7 Offer for +3

8

MetaBirkins 34

Price +7 Offer for +0.15

9

MetaBirkins 31

Price +7.5 Last +5

10

MetaBirkins 6

Price +8 Offer for +0.025

10

MetaBirkins 38

Price +8.29 7 days left

10

MetaBirkins 62

Price +8.88 6 days left

8

MetaBirkins 18

Price +9.4 5 days left

14

MetaBirkins 42

Price +9.5 6 days left

8

MetaBirkins 15

Price +9.9 Offer for +0.3029

17

MetaBirkins 41

Price +10

9

MetaBirkins 60

Price +10 Offer for +0.025

10

MetaBirkins 47

Price +10 Offer for +0.4

10

MetaBirkins 0

Price +10

24

MetaBirkins 28

Min Bid +20 6 days left

14

MetaBirkins 9

Price +20

15

MetaBirkins 27

Min Bid +20 6 days left

40

MetaBirkins 77

Price +22.377

7

MetaBirkins 52

Price +25 Last +9.5

10

MetaBirkins 16

Price +25 Offer for +0.25

16

MetaBirkins 45

Price +33

5

MetaBirkins 80

Price +69

9

MetaBirkins 40

Price +69 Last +7.85

18

MetaBirkins 2

MetaBirkins 1

MetaBirkins 3

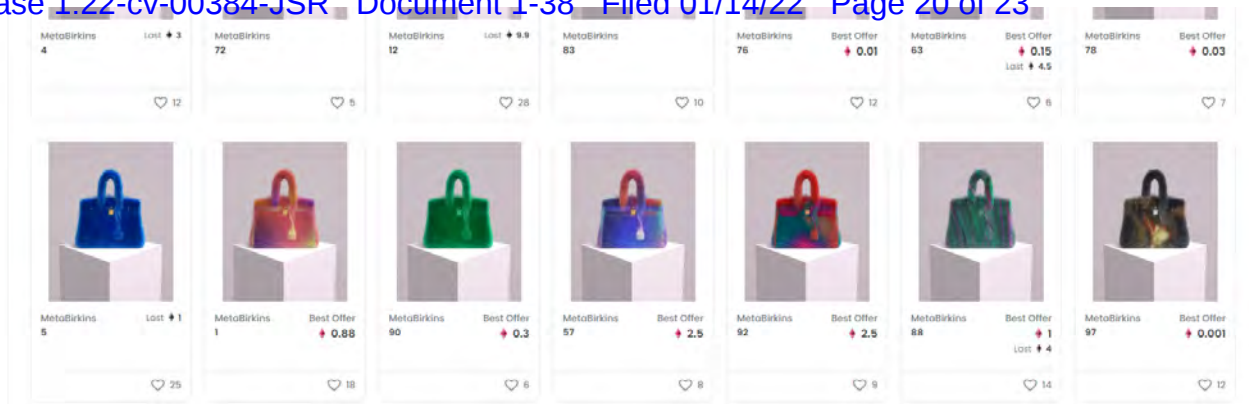
MetaBirkins 4

MetaBirkins 5

MetaBirkins 6

MetaBirkins 7





Basic.Space

Products Experiences Sellers

Q

Person

Heart

Shopping Bag

All Products

Women

Men

Jewelry

Art

Home

Lifestyle

NFTs

Home

Products

Baby Birkin

00:00:00

00:00:00

00:00:00

00:00:00

LIVE

Pause

Full Screen

Baby Birkin

MasonRothschild.EricRamirez

Final bid (1 winner)  
\$23,500

★ Item for auction [Learn more →](#)

Auction ended  
00 days 00 hours 00 minutes 00 seconds

Description  
"Baby Birkin" is an NFT Artwork by Mason Rothschild and Eric Ramirez. The 2000x2000 animation in 3D max is soundtracked by a space-age wav audio file, amplifying this illustration of pregnancy in an enigmatic creation, and an ironic nod to the iconic bag. The Birkin, by French luxury goods maker Hermès, has been revered as a symbol of luxury and status since its introduction in the 1980s.

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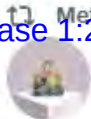
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## **Exhibit C**



MetaBirkins Retweeted  
**MasonRothschild.eth**  
 @MasonRothschild

More and more fake @MetaBirkins are being sold every hour. The official #MetaBirkins collection has not been minted. It will not appear on any marketplaces until we give the green light tomorrow. Share this to prevent future scams. @opensea

Name	Price	Quantity	From	To
MetaBirkin #12	1.0 ETH	1	...	...
MetaBirkin #13	1.0 ETH	1	...	...
MetaBirkin #14	1.0 ETH	1	...	...
MetaBirkin #15	1.0 ETH	1	...	...
MetaBirkin #16	1.0 ETH	1	...	...
MetaBirkin #17	1.0 ETH	1	...	...
MetaBirkin #18	1.0 ETH	1	...	...
MetaBirkin #19	1.0 ETH	1	...	...
MetaBirkin #20	1.0 ETH	1	...	...
MetaBirkin #21	1.0 ETH	1	...	...
MetaBirkin #22	1.0 ETH	1	...	...
MetaBirkin #23	1.0 ETH	1	...	...
MetaBirkin #24	1.0 ETH	1	...	...

9:48 PM · Dec 1, 2021 · Twitter for iPhone

41 Retweets 10 Quote Tweets 77 Likes

